

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, Washington, DC 20231, on the date shown below.

Dated: June , 2002

Signature: \_\_\_\_\_  
(Joy H. Periao)

Docket No.: 60901/P007US/10103166  
(PATENT)

JUL 01 2002

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Alexis Mendez, et al.

Application No.: 10/062,577

Group Art Unit: 2874

Filed: January 30, 2002

Examiner: Not Yet Assigned

For: OPTICAL FIBER BRAGG GRATING TUNING  
DEVICE

**DECLARATION OF FACTS IN SUPPORT OF FILING  
ON BEHALF OF OMITTED INVENTOR (37 C.F.R. § 1.47)**

Commissioner for Patents  
Washington, DC 20231

Dear Sir:

This declaration is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the omitted inventor for the above-identified patent application.

This declaration is being made by the available person having first-hand knowledge of the facts recited therein.

**LAST KNOWN ADDRESS OF THE NONSIGNING INVENTOR**

Full Name of Nonsigning Inventor	Gershon Perelman
Last Known Address of Nonsigning Inventor	1554 Primrose Way Cupertino, CA 95014

**DETAILS SUPPORTING PROPRIETARY INTEREST OF 37 C.F.R. §1.47 APPLICANT**

On September 11, 2000, I witnessed the signing of an Invention Assignment Agreement to 37 C.F.R. §1.47 Applicant Phaethon Communications, Inc., by the nonsigning inventor Gershon Perelman. This Invention Assignment Agreement provides in part that the signer assigns and conveys to the Company all of signer's right, title, and interest in and to

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inventions of the signer during employment with the Company and will further after termination of employment execute any instrument which the Company shall deem necessary in order to assign and convey to the Company any copyrights, patents, mask work rights or other intellectual property rights related thereto. The Invention Assignment Agreement further provides that the signer irrevocably designates and appoints the Company as agent and attorney in fact to act in behalf of the signer in such matters.

A copy of the above cited Invention Assignment Agreement executed by the nonsigning inventor Gershon Perelman is submitted herewith as EXHIBIT A.

The employment of nonsigning inventor Gershon Perelman with Phaethon Communications, Inc., was terminated on September 26, 2001. The present Application was filed with missing parts on January 30, 2002, claiming priority benefit of Provisional Application 60/266,683 filed February 5, 2001, within the term of employment of the nonsigning inventor with Phaethon Communications.

The 37 C.F.R. §1.47 Applicant Phaethon Communications, Inc. will potentially incur irreparable damages due to nonsigning of inventor Perelman, because of failing to meet the deadline of the USPTO for filing a missing parts response. All other joint inventors signed the missing parts filing documents as of April 15, 2002. In connection with a previous US Application Serial No. 09/924,784 filed with missing parts August 8, 2001, nonsigning inventor Perelman delayed nearly six months in signing the filing documents, causing a delay in filing a missing parts response until February 4, 2002, and thereby causing the 37 C.F.R. §1.47 Applicant Phaethon Communications, Inc. to incur extension fees.

#### IDENTIFICATION OF PERSON MAKING THE ABOVE DECLARATION OF FACTS

Name of Declarant	Genie Criscione
Title	Executive Administrator
	Phaethon Communications, Inc.
Address of Declarant	5005 Brandin Court
	Fremont, CA 94538

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that

these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: \_\_\_\_\_

6/18/02

  
Genie Criscione

DETAILS OF REFUSAL OF NONSIGNING INVENTOR TO SIGN  
APPLICATION PAPERS

On February 6, 2002, I sent copies of the final patent application and filing documents for US Application Serial No. 10/062,577 via FedEx to all of the joint inventors, including nonsigning inventor Gershon Perelman. A copy of the FedEx record of delivery to Mr. Perelman labeled EXHIBIT B is submitted herewith as evidence of diligent effort to reach the nonsigning inventor.

In addition to the foregoing, I attempted to contact Mr. Perelman by telephone regarding US Application Serial No. 10/062,577. None of the following six messages was acknowledged:

04-10-2002	I left a message on his home answering machine.
04-15-2002	I left a message on his home answering machine.
04-22-2002	I left a message with a woman who answered at his home telephone.
04-18-2002	I left a message on his work answering machine.
04-23-2002	I left a message on his work answering machine.
04-24-2002	I left a message on his work answering machine.

On April 24, 2002, I sent a duplicate set of documents to Mr. Perelman together with copy of the Application Serial No. 10/062,577, Provisional Application 60/266,683, and a cover letter signed by Phaethon Communications Chief Scientist Josh Rothenberg. This package was sent to Mr. Perelman's home address via Certified US Mail with Return Receipt. Mr. Perelman signed for the delivery on April 27, 2002. A copy of the April 24, 2002 cover letter labeled EXHIBIT C, and a copy of the April 27, 2002 receipt signed by Mr.

Perelman, labeled EXHIBIT D are submitted herewith as evidence of further diligent effort to reach the nonsigning inventor.

On April 25, 2002, I reached Mr. Perelman by telephone at his office. He stated that he would try to sign the filing documents the next weekend (April 27-28, 2002). I urged him to do so and told him that we needed to complete the filing in the next week or two.

After receiving no response to the foregoing, on May 1, 2002, I attempted again to reach Mr. Perelman by telephone. I left a message on his answering machine advising him that further delay in signing the documents would result in his being treated as an uncooperative inventor, and in various legal consequences, although this could be avoided if he would call me and let me know when I could have the signed documents.

IDENTIFICATION OF PERSON MAKING THE ABOVE DECLARATION OF FACTS

Name of Declarant	Genie Criscione
Title	Executive Administrator
	Phaethon Communications, Inc.
Address of Declarant	5005 Brandin Court
	Fremont, CA 94538

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 6/18/02

  
Genie Criscione

FURTHER DETAILS OF REFUSAL OF NONSIGNING INVENTOR TO SIGN  
APPLICATION PAPERS

On May 7, 2002, I sent an email message to nonsigning inventor Gershon Perelman, regarding signing of filing documents for Application Serial No. 10/062,577. In this message I summarized the numerous previous attempts to get Mr. Perelman's response and requested that he show the courtesy of a commitment as to when he would send the signed documents or state any issues he would like to bring to our attention. I advised him that the likely alternative would be costly and wasteful legal consequences. A copy of this email message, labeled EXHIBIT E, is submitted herewith.

In response to the foregoing message Mr. Perelman replied by email on May 8, 2002, alleging in a bellicose manner that he was busy, had not complained to us in the past, that we had threatened him with legal action, and effectively refusing to sign the filing documents. A copy of Mr. Perelman's May 8, 2002, email reply, labeled EXHIBIT F, is submitted herewith.

In response to the foregoing reply, on May 10, 2002, I sent an email message reminding Mr. Perelman of his legal obligations to Phaethon, that he had been in possession of the documents since February, and that we had attempted to reach him with numerous messages. I recited the history of his delays and obstruction regarding the signing of the documents, and urged him to sign them in order to avoid legal consequences. A copy of my May 10, 2002, email message, labeled EXHIBIT G, is submitted herewith.

Mr. Perelman did not reply to my email message of May 10, 2002.

On May 21, 2002, I sent an email message to Mr. Perelman, summarizing selected portions of an earlier telephone conversation between Mr. Perelman and attorney Michael A. Papalas. In this email message I stated to Mr. Perelman that he had nothing to gain by delaying longer, and set a deadline of June 7, 2002, for his response in order to avoid legal consequences. A copy of my May 21, 2002, email message, labeled EXHIBIT H, is submitted herewith. Mr. Perelman did not reply to my email message of May 21, 2002.

Application No.: 10/062,577

Docket No.: 60901/P007US/10103166

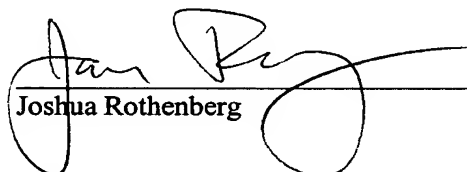
IDENTIFICATION OF PERSON MAKING THE ABOVE DECLARATION OF FACTS

Name of Declarant	Josh Rothenberg
Title	Chief Scientist
	Phaethon Communications, Inc.
Address of Declarant	5005 Brandin Court
	Fremont, CA 94538

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: \_\_\_\_\_

6/18/2002

  
Joshua Rothenberg

FURTHER DETAILS OF REFUSAL OF NONSIGNING INVENTOR TO SIGN APPLICATION PAPERS

As a Patent Agent representing Phaethon Communications, Inc., on May 16, 2002, I sent an email message to Mr. Perelman regarding his refusal to sign filing documents relating to US Application Serial No. 10/062,577. In the message I referred to repeated delays of Mr. Perelman to sign the documents, and urged him to fulfill his legal obligation to sign, in order to avoid undesirable consequences to both parties. A copy of my email message of May 16, 2002, labeled EXHIBIT I, is submitted herewith. No reply was received from Mr. Perelman, thereby constituting de facto refusal to sign the documents.

IDENTIFICATION OF PERSON MAKING THIS DECLARATION OF FACTS

Name of Declarant	William B. Tiffany, Patent Agent
Registration No.	41,347
Address of Declarant	Fulbright & Jaworski LLP
	2200 Ross Avenue, Suite 2800
	Dallas, TX 75201

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 6/20/2002 William B. Tiffany  
William B. Tiffany

FURTHER DETAILS OF REFUSAL OF NONSIGNING INVENTOR TO SIGN  
APPLICATION PAPERS

On May 17, 2002, I conducted a telephone interview with nonsigning inventor Mr. Gershon Perelman. Mr. Perelman made contradictory statements, for example stating that he did not have enough time to review the application, and then stating that he believed he had already signed the documents. At another time, he stated that for a sum of money he would sign the documents. When asked, he named a figure in the neighborhood of \$10,000.00. Other portions of the interview are summarized in the May 21, 2002, email message to Mr. Perelman from Josh Rothenberg (see above), previously labeled EXHIBIT H, submitted herewith.

On June 17, 2002, I sent a letter to Mr. Perelman via registered mail, in which I informed him that we were completing the filing requirements for U.S. Application Serial No. 10/062,577 without his signature. A copy of this letter, labeled EXHIBIT J, is submitted herewith.

IDENTIFICATION OF PERSON MAKING THIS DECLARATION OF FACTS

Name of Declarant  
Registration No.  
Address of Declarant

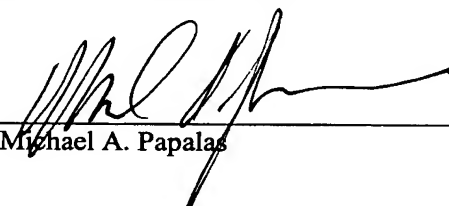
Michael A. Papalas, Patent Attorney  
40,381  
Fulbright & Jaworski LLP  
2200 Ross Avenue, Suite 2800  
Dallas, TX 75201

Application No.: 10/062,577

Docket No.: 60901/P007US/10103166

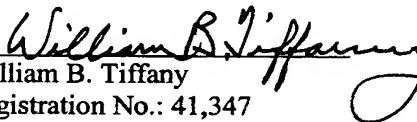
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 20 JUN 02

  
Michael A. Papalas

Dated: June 24, 2002

Respectfully submitted,

By   
William B. Tiffany  
Registration No.: 41,347  
FULBRIGHT & JAWORSKI L.L.P.  
2200 Ross Avenue  
Suite 2800  
Dallas, Texas 75201  
(214) 855-8204  
(214) 855-8200 (Fax)  
Attorneys for Applicant



# Fax Message

COPY OF PAPERS  
ORIGINALLY FILED



**Phaethon Communications Inc.**

5005 Brandin Court  
Fremont, CA 94538-3140  
[www.phaethoncommunications.com](http://www.phaethoncommunications.com)  
Phone: 510-445-3950  
Fax: 510-445-3959

**Name:** Mike Papalas  
**Company:** Fulbright & Jaworski  
**Phone#:** 214 855 8000  
**Number of pages (including cover):** 10

**Date:** 11/19/2001

**Fax#:** 214 855 8200

## MESSAGE:

Mike --

Here is Gershon Perelman's invention assignment agreement.  
Let me know if you need anything further.

Genie.

**From:** Genie Criscione

**Phone #:** (510) 445-3950 x 228 **Fax #:** (510) 445-3959

Exhibit A

RECEIVED

JUL 08 2002

OFFICE OF PETITIONS

**PHAETHON COMMUNICATIONS, INC.**

**EMPLOYMENT, CONFIDENTIAL INFORMATION AND  
INVENTION ASSIGNMENT AGREEMENT**

As a director, officer, and employee or consultant of Phaethon Communications, Inc., its subsidiaries, affiliates, successors or assigns (together the "Company"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by Company, I agree to the following:

1. **At-Will Employment.** I understand and acknowledge that my employment with the Company is for an unspecified duration and constitutes "at-will" employment. I acknowledge that this employment relationship may be terminated at any time, with or without good cause or for any or no cause, at the option either of the Company or myself, with or without notice. I understand and acknowledge that in the event that my employment is terminated by me or by the Company for any reason that I will be entitled to no continuation of salary, benefits, or stock or option vesting, except for any acceleration of stock vesting as described in my Restricted Stock Purchase Agreement with the Company dated January 31, 2000.

2. **Confidential Information.**

(a) **Company Information.** I agree at all times during the term of my employment and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Board of Directors of the Company, any Confidential Information of the Company. I understand that "Confidential Information" means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the term of my employment), markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment. I further understand that Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved.

(b) **Former Employer Information.** I agree that I will not, during my employment with the Company, improperly use or disclose any proprietary information or trade secrets of any former or concurrent employer or other person or entity and that I will not bring onto the premises of the Company any unpublished document or proprietary information belonging to any such employer, person or entity unless consented to in writing by such employer, person or entity.

(c) **Third Party Information.** I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party.

3. **Inventions.**

(a) **Inventions Retained and Licensed.** I have attached hereto, as Exhibit A, a list describing all inventions, original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "Prior Inventions"), which belong to me, which relate to the Company's proposed business, products or research and development, and which are not assigned to the Company hereunder; or, if no such list is attached, I represent that there are no such Prior Inventions. If in the course of my employment with the Company, I incorporate into a Company product, process or machine a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or machine.

(b) **Assignment of Inventions.** I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and hereby assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (collectively referred to as "Inventions"), except as provided in Section 3(f) below. I further acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and which are protectible by copyright are "works made for hire," as that term is defined in the United States Copyright Act.

(c) **Inventions Assigned to the United States.** I agree to assign to the United States government all my right, title, and interest in and to any and all Inventions whenever such full title is required to be in the United States by a contract between the Company and the United States or any of its agencies.

(d) **Maintenance of Records.** I agree to keep and maintain adequate and current written records of all Inventions made by me (solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, and any other format that may be specified by the Company. The records will be available to and remain the sole property of the Company at all times.

(e) **Patent and Copyright Registrations.** I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns, and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed, when it is in my power to do so, any such instrument or papers shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(f) **Exception to Assignments.** I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention which qualifies fully under the provisions of California Labor Code Section 2870 (attached hereto as Exhibit B). I will advise the Company promptly in writing of any inventions that I believe meet the criteria in California Labor Code Section 2870 and not otherwise disclosed on Exhibit A.

4. **Conflicting Employment.** I agree that, during the term of my employment with the Company, I will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of my employment.

5. **Returning Company Documents.** I agree that, at the time of leaving the employ of the Company, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items developed by me pursuant to my employment with the Company or otherwise belonging to the Company, its successors or assigns. In the event of the termination of my employment, I agree to sign and deliver the "Termination Certification" attached hereto as Exhibit C.

6. **Notification of New Employer.** In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

7. **Solicitation of Employees and Business.** I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether with or without cause, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage or take away employees of the Company, either for myself or for any other person or entity.

8. **Conflict of Interest Guidelines.** I agree to diligently adhere to the Conflict of Interest Guidelines attached as Exhibit D hereto.

9. **Representations.** I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict herewith.

10. **Arbitration and Equitable Relief.**

(a) **Arbitration.** Except as provided in Section 10(b) below, I agree that any dispute or controversy arising out of or relating to any interpretation, construction, performance or breach of this Agreement, shall be settled by arbitration to be held in Santa Clara County, California, in accordance with the rules then in effect of the American Arbitration Association. The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction. The Company and I shall each pay one-half of the costs and expenses of such arbitration, and each of us shall separately pay our counsel fees and expenses.

(b) **Equitable Remedies.** I agree that it would be impossible or inadequate to measure and calculate the Company's damages from any breach of the covenants set forth in Sections 2, 3, and 5 herein. Accordingly, I agree that if I breach any of such Sections, the Company will have available, in addition to any other right or remedy available, the right to obtain an injunction from a court of competent jurisdiction restraining such breach or threatened breach and to specific performance of any such provision of this Agreement. I further agree that no bond or other security shall be required in obtaining such equitable relief and I hereby consent to the issuance of such injunction and to the ordering of specific performance.

(c) **Assignment.** This Agreement may not be assigned by any party hereto, except that the Company may assign this Agreement in connection with (1) a merger or consolidation of the Company, (2) a sale or assignment of substantially all its assets, or (3) any other transaction which results in another entity or person owning substantially all of the assets of the Company; provided that the entity or person receiving or succeeding to the assets of the Company assumes the Company's obligations.

11. **General Provisions.**

(a) **Governing Law; Consent to Personal Jurisdiction.** This Agreement will be governed by the laws of the State of California. I hereby expressly consent to the personal jurisdiction of the state and federal courts located in California for any lawsuit filed there against me by the Company arising from or relating to this Agreement.

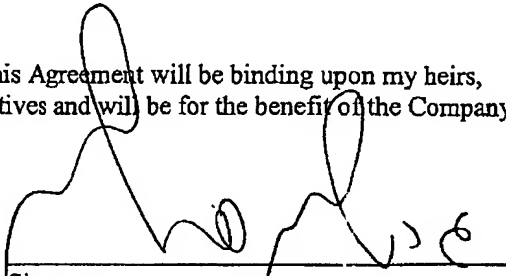
(b) **Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and supersedes any prior agreements or arrangements between the Company and me with respect to the subject matter hereof. No modification of or amendment to this Agreement, nor any waiver of any rights under this agreement, will be effective unless in writing signed by the party to be charged. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement.

(c) **Severability.** If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

*[This Space Intentionally Left Blank]*

(d) Successors and Assigns. This Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

Date: 9/11/2000

  
\_\_\_\_\_  
Signature  
GERSHON PERELMAN  
\_\_\_\_\_  
Name (typed or printed)

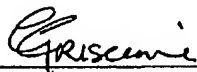
  
\_\_\_\_\_  
Witness

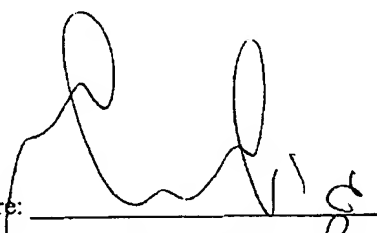
EXHIBIT A

**LIST OF PRIOR INVENTIONS  
AND ORIGINAL WORKS OF AUTHORSHIP**

Title	Date	Identifying Number or Brief Description
1. Edge <del>test</del> removal machine for square & round substrates	1992	system for removing photoresist from edge of square or round substrates by means of UV light.
2. Servo compensation for thermal expansion of high speed hard drives.		a method of using the test data track to compensate for aerodynamic expansion of disks.
3. non shock Hammer		hammer to avoid transfer of shock to wrist and elbow.
4. static optical filter		mechanical filter to remove periodic information from Fourier plane
5. differential capacitive sensor		capacitive sensor to increase linear range of measurement by using differential arrangement of linear transducers measuring sensors

☐ No inventions or improvements

☐ Additional Sheets Attached see back of page.

Signature: 

Print Name: Geraldine Paul

Date: 9/12/2000



6. Mechanism to load magnetic head on tester.  
mechanism to load/position + lock head support on head tester.
7. flexible <sup>electric</sup> contacts.  
a method of using combination of conductive + non conductive epoxies to create electrical contacts on flexible and rigid substrates.
8. kinematic mount of Piezo actuator on linear flexure stage  
a method to install a linear piezo actuator on linear stage (flexure) in order to avoid non axial stresses and ensure positive contact.
9. thermal compensation for piezo actuator  
passive thermal compensator for piezo actuated stages used for head magnetic media testing
10. method of using non stress clamps for lenses.  
a method to support optical lenses without inducing stresses by means of plastic clips on a flexured rim to support lens
11. simple pseudokinematic mount  
method of non repeatable mounting of parts by simple V groove and flat + 2 dowel pins.
12. Smooth stepping profile for stepper motors  
a way of providing a synchronized sinusoidal inputs to stepper motor to smooth its rotation and avoid "stepping vibrations".
13. "0" holding torque stepper motor.  
stepper motor with "0" holding torque when deenergized to ensure ~~precise~~ precise positioning of components, without jumping to

14. method of deposition  
Polystyrene spheres

0  $\rightarrow$  3  $\mu$  in  $\phi$  on  
localized area.

system method of depositing  
~~very clean~~ mono sized spheres  
on substrate in localized  
area ( $\approx \phi 0.5 - \phi 5 \text{ mm}$ ) using  
simple atomizer.

15. method of manual.  
fast/precise ~~man~~ drive  
of microscope or  
General stages

using concentric nuts/screws  
+ friction adjustment  
created drive for fast-slow/precise  
manual move of stages.



FedEx Express  
Customer Support Trace  
3875 Airways Boulevard  
Module H, 4th Floor  
Memphis, TN 38116

U.S. Mail: PO Box 727  
Memphis, TN 38194-4643  
  
Telephone: 901-369-3600

5/10/2002

Dear Customer:

Here is the proof of delivery for the shipment with tracking number **827992486754**. The shipment was released without signature as authorized by the shipper/recipient.

---

**Delivery Information:**

---

**Signed For By:** 15005626  
**Delivery Location:** 1554 PRIMROSE WY  
**Delivery Date:** February 7, 2002  
**Delivery Time:** 1108

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**Tracking No:** 827992486754

**Ship Date:** February 6, 2002

**Recipient:**  
GERSHON PERELMAN  
  
1554 PRIMROSE WAY  
CUPERTINO, CA 95014  
US

**Shipper:**  
GENIE CRISCIONE  
PHAETHON COMMUNICATIONS  
5005 BRANDIN CT  
FREMONT, CA 945383140

**Shipment Reference Information:**

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4/24/02

Gershon Perelman  
1554 Primrose Way  
Cupertino, CA 95014

Dear Gershon,

This letter regards the mechanical stretcher patent "Optical Fiber Bragg Tuning Device", otherwise known as the circular stretcher. On Feb. 1, 2002 we sent you a copy of the as-filed patent and documents which require your signature. You have not returned the signed documents to us. You have also disregarded a number of our phone calls inquiring as to the status of your response.

In the event that the previous documents have been misplaced, please find copies enclosed of the final patent as filed with the USPTO for your review and records, along with two documents ("Assignment by Inventor" and "Declaration of Patent Application") that require your signature, in the places indicated. Please note that notarization is not necessary.

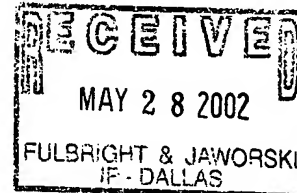
For your records I have also enclosed the provisional from Feb. 5, 2001, upon which this patent application is based.

If you have other questions on this matter please do not hesitate to contact myself or others at Phaethon. or our patent attorney Mike Papalas at Fulbright and Jaworski, (214) 855-8186 for a further explanation.

Please note that your employment agreement requires you to facilitate filing of, and assign to Phaethon, the intellectual property developed while you were employed here. Your timely assistance with this matter will be appreciated. To this end we have enclosed a return Fedex envelope for your convenience. If you feel you cannot sign the enclosed documents, please show us the courtesy of quickly notifying us about the relevant issue.

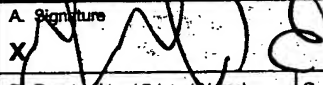
Best Regards,

Josh Rothenberg  
Chief Scientist



t 510-445-3950 f 510-445-3959  
5005 Brandin Court, Fremont, California 94538  
www.phaethoncommunications.com

Exhibit C

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature    <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>GERSHON PERELMAN  1554 PRIMROSE WAY  CUPERTINO, CA. 95014</p>		<p>B. Received by (Printed Name)</p> <p>C. Date of Delivery  4/27/02</p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>2. Article Number  (Transfer from service label)</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>700 670 000 6631 1339</p>			
<p>PS Form 3811, August 2001</p>		<p>Domestic Return Receipt</p>	
		<p>102595-02-M-0835</p>	

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PHAXETHON COMMUNICATIONS  
ATTN: JOSH ROTHENBERG  
5005 BRANDIN COURT  
FREMONT, CA. 94538

Why, instead of this nonsense, don't you just tell us when you will send the docs in, and then simply do it? You have only had 3 months to do so thus far...be a mensch!! Save us, yourself, and your family a lot of time, money, and aggravation!!

Finally, permit me to point out that the time that it took for you to write the response below is more than it would for you to review and sign the patent.

If we don't hear from you by 5/15, stating when you will send the docs, the next contact will be from our attorneys.

Best Regards and an early Chag Someach,  
Mr. Josh

PS: This should be the last set of documents we need from you, so why not get it done with and you can forget about us!

> -----Original Message-----

> From: Perelman, Gershon [mailto:Gershon.Perelman@kla-tencor.com]

> Sent: Thursday, May 09, 2002 2:34 PM

> To: Rothenberg, Josh

> Cc: Varda Perelman (E-mail)

> Subject: RE: Signatures

>

>

> May 8, 2002

> Mr. Josh Rothenberg,

> 1. Let me remind you I do not make a living from Phaethon,

> and I do have to

> work somewhere else to support my family, so do not preach to me about

> courtesy and commitments. Your priorities are not of my business.

> 2. I told Genie I am extremely busy and I will try to read

> and sign the

> papers the weekend before last (I did not promise anything).

> 3. I have no recollection of complaining to you at any time

> in the past, so

> please provide the documentation of all the interactions

> between Phaethon

> and me starting from December 2001.

> 5. Mr. Rothenberg, this is a free country and you can do whatever you

> please. I had a conversation with Mr. Stan Speelman (you

> present president

> and CEO) during November 2001 in which he threatened me with

> legal action

> and lawyers. At the time I made myself very clear to him that

> that was the

> first and last time I will tolerate a personal threat from

> Phaethon. You

> have left no choice to me but to wait for the written records of your

> numerous attempts to reach me, and specifically my complaint to you in

> December 2001, before I take any action in this matter.

> Sincerely

> Gershon Perelman

>

>

> -----Original Message-----

> From: Rothenberg, Josh [mailto:JRothenberg@phaethoncommunications.com]

> Sent: Tue, May 07, 2002 6:47 PM

> To: gershon.perelman@kla-tencor.com

> Cc: Criscione, Genie

> Subject: Signatures

>

>

> Gerhson,

>

> Well I'm not sure what the problem is, but again you are the only

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> Cc: Criscione, Genie

> Subject: Signatures

>

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> Gershon,

>

> Well I'm not sure what the problem is, but again you are the only



> inventor who did not reply to our many requests in a timely fashion.  
>  
> In December you complained to me that we did not make  
> sufficient contact  
> with you directly before we engaged our attorneys to pursue your  
> signature.  
>  
> This time Genie has made numerous attempts to get your response and we  
> have sent two sets of the documents to your home.  
>  
> \*Please\* show us the courtesy of a response with a committment as to  
> when you will send us the signed documents (or any issues you  
> would like  
> to bring to our attention).  
>  
> If you do not respond we will have no other choice, and you will be  
> hearing directly from our attorneys. Going down this road is  
> a waste of  
> time and money for both you (as an individual and an investor) and us.  
>  
> Best Regards,  
> Josh  
>  
>  
> \*\*\*\*\*  
> Josh Rothenberg  
> Phaethon Communications  
> Phone: 510-445-3950 ext 206  
> <http://www.phaethoncommunications.com/>  
> \*\*\*\*\*  
>  
>  
>

**Tiffany, Bill**

---

**From:** Rothenberg, Josh [JRothenberg@phaethoncommunications.com]  
**Sent:** Friday, May 10, 2002 12:43 PM  
**To:** 'Perelman, Gershon'  
**Cc:** 'Varda Perelman (E-mail)'  
**Subject:** RE: Signatures

Dear Mr. Gershon,

We sent you the first copy of the patent and signature documents at the beginning of February, in case you have difficulty remembering (or counting -- that's \*three months\* ago), -- not the weekend before last. As I stated before, all the other inventors responded a long time ago. Meaning that this delay problem is not typical, but apparently specific to you and your preferred way of dealing with us.

Let me remind you that although you do not work here, you still have legal obligations to Phaethon, as stipulated in your employment contract. It is these obligations, not my priorities, that I am interested in you fulfilling, like a mensch. And you are an investor, so why not do what is best for both you and Phaethon? What have you got to gain by delaying the inevitable, beside a lot of waste and aggravation??

Your selective memory is quite noteworthy, but to remind you, this past winter after you had a number of conversations with our attorney Bill Tiffany about the signature on the last patent, you complained to him that Phaethon had not been sufficiently directly in touch with you on the matter. Subsequently, when I called you, you said "Josh, the next time please no lawyers, just deal directly with me and we can handle it" (or something very close to that effect). This is exactly what we have tried for the last 3 months to do, but you have been unresponsive.

We do not have any obligation to you to document our many attempts to get your signature (for this patent, let alone the last one). However, as you know, we did send you the documents needing signature and the accompanying patent twice, and we called you many times in the interim. On the other hand, you have a clear obligation to sign the documents.

Just for the record and so that you know how many mailings and phone calls you have ignored on this matter:

We mailed you the first set of docs, which was delivered to your home on Feb. 7, 2002. We left 3 messages at your home - first on April 10, again April 15 (both on your answering machine), and a third given to a woman or teenage girl April ~22. Three messages were left for you at work - April 18, 23, and 24.

Finally, Genie caught you by phone in your office on April 25, when you said you would attempt to sign the weekend of 4/27. In addition, you signed for the second set of docs on April 27. Finally another message for you was left May 1. By the way, its now two weeks since Genie spoke with you, but who's counting.

Since you previously told me that you would prefer to keep lawyers out of the loop, I was trying in my last email to save both you and us the cost and time of that route.

What should we do at this point, since you have been totally unresponsive?? Just sit on our hands and wait another 3 months??

Unfortunately we cannot. If you don't respond we will have no other choice then to get lawyers involved in the loop. This is \*not\* a threat, since lawyers are harmless, but they are the only choice we have available at this point to enforce our contract with you.

Why, instead of this nonsense, don't you just tell us when you will send the docs in, and then simply do it? You have only had 3 months to do so thus far...be a mensch!! Save us, yourself, and your family a lot of time, money, and aggravation!!

Finally, permit me to point out that the time that it took for you to write the response below is more than it would for you to review and sign the patent.

If we don't hear from you by 5/15, stating when you will send the docs, the next contact will be from our attorneys.

Best Regards and an early Chag Someach,  
Mr. Josh

PS: This should be the last set of documents we need from you, so why not get it done with and you can forget about us!

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> Sent: Thursday, May 09, 2002 2:34 PM

> To: Rothenberg, Josh

> Cc: Varda Perelman (E-mail)

> Subject: RE: Signatures

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> Cc: Criscione, Genie

> Subject: Signatures

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> Gerhson,

>

> Well I'm not sure what the problem is, but again you are the only

**Tiffany, Bill**

---

**From:** Papalas, Michael  
**Sent:** Tuesday, June 11, 2002 11:20 AM  
**To:** Tiffany, Bill  
**Subject:** FW:

Michael A. Papalas  
Fulbright & Jaworski L.L.P.  
214-855-8186 telephone  
214-855-8200 facsimile  
mpapalas@fulbright.com  
2200 Ross Avenue  
Suite 2800  
Dallas, TX 75201

-----Original Message-----

**From:** Rothenberg, Josh [mailto:JRothenberg@phaethoncommunications.com]  
**Sent:** Tuesday, May 21, 2002 2:53 PM  
**To:** Gershon.Perelman@kla-tencor.com  
**Cc:** Michael Papalas (E-mail)  
**Subject:**

Gershon,

After he spoke with you, Mike Papalas transmitted your concerns to me.

I am happy to apologize for any bad feelings that my previous email may have caused you.

Of course, as I am sure you truly know, my email was simply an effort to save both you and us more aggravation and cost over this simple issue. As I stated clearly in that email we have no intent to threaten in any way, but just to remind you that the easiest, most economical and aggravation-free way for all involved to handle this issue is simply for you to sign the documents and return them to us.

Mike also mentioned to me that you believed you had signed these documents sometime in the past. (To my knowledge we are certainly not in possession of such signed documents.) If this is indeed the case, then it would appear that you have no need to review the application. In any case, the simple question to you is why has it taken 3 and now coming up on 4 months to sign.

I think you would agree that this length of time has been much more than reasonably adequate.

As I stated in my previous email, if you need more time and would like to give us a date when you will be able to comply, then by all means, please let us know, and we can go from there. Other suggestions you have are welcome.

I hope you will realize soon that just sitting on these documents is pointless, before the expenses caused by your delay become large. I know you can be a reasonable person, and you can keep to the commitments that you make. You truly have nothing to gain by delaying longer, so please just respond before June 7 and we can put this behind us.

Otherwise, you will be hearing from Mike again.

So, Gershon, please lets move on...we all have more important things to do...

- Wishing you much success in all your endeavors.

Best Regards,  
Josh

\*\*\*\*\*  
Josh Rothenberg  
Phaethon Communications  
Phone: 510-445-3950 ext 206  
<http://www.phaethoncommunications.com/>  
\*\*\*\*\*

**Tiffany, Bill**

---

**From:** Tiffany, Bill  
**Sent:** Thursday, May 16, 2002 2:00 PM  
**To:** 'gershon.perelman@kla-tencor.com'  
**Cc:** Tannenbaum, David; Papalas, Michael  
**Subject:** Signatures Phaethon Patent Application P007US

**Importance:** High  
**Sensitivity:** Confidential

CONFIDENTIAL & PRIVILEGED  
Attorney-Client Communication

Dear Gershon,

I am contacting you on behalf of Phaethon reluctantly, because I remember very clearly that you did not wish me to be involved. As before, I have no intention of threatening you, but simply helping resolve the difficulties and avoid painful future problems by urging you to fulfill your contractual obligation to sign the formal documents relating to the subject patent application. I sincerely ask you to let me know what needs to happen for you to do this in a timely way.

I am in receipt of the correspondence and other material documenting the attempts Phaethon has made over a period of three months to obtain your signature. It seems to me that Phaethon has literally done all they can to accommodate your delays and to respect your requests. They have dealt directly with you in these matters, just as you have insisted. You have no stated substantive objections to the patent application.

I hope you will reflect a little on the undesirable consequences both to you and to Phaethon that can be avoided if you simply sign the documents.

I will phone you later today, if I don't hear from you in the meantime. I expect that we can resolve this matter and that you will sign the documents. If I don't reach you or if we do not reach an explicit agreement for you to sign the documents, we will proceed immediately to file without your signature and declare you to be a non-cooperating inventor. Phaethon reserves the option to pursue additional remedies, including but not limited to specific performance and financial remedies.

You can reach me by email or phone today 214-855-8204. I will be out of the office for the rest of the month starting tomorrow, and Mike Papalas, a senior associate attorney in our office, will be handling this matter. His telephone number is 214-855-8186.

Very truly yours,  
(Bill)  
William B. Tiffany

\*\*\*\*\*

This email message and any attachments are for the sole use of the intended recipient(s) and contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message and any attachments.

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FULBRIGHT & JAWORSKI L.L.P.  
\*\*\*\*\*

**FULBRIGHT & JAWORSKI L.L.P.**

A REGISTERED LIMITED LIABILITY PARTNERSHIP

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SUITE 2800  
DALLAS, TEXAS 75201

TELEPHONE: (214) 855-8000  
FACSIMILE: (214) 855-8200

INTERNET ADDRESS:  
MPAPALAS@FULBRIGHT.COM

DIRECT DIAL: (214) 855-8186

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MINNEAPOLIS  
LONDON  
HONG KONG

June 17, 2002

**Via Registered Mail**

Mr. Gershon Perelman  
1554 Primrose Way  
Cupertino, California 95014

Re :	U.S. Patent Application No.	10/062,577
	Title	OPTICAL FIBER BRAGG GRATING TUNING DEVICE
	Filed	January 30, 2002
	Inventor	Mario Pacheco et al.
	Our Reference	60901/P007US/10103166

Dear Mr. Perelman:

At the request of Phaethon Communications, we are sending this letter to inform you that we are completing the filing requirements for the above patent application without your signature.

As you know, several attempts have been made to secure your signature for this application. Further delay on your part will increase the cost to Phaethon for completing the filing requirements for this application. Therefore, we have no choice but to petition the Patent Office to allow us to complete the filing requirements without your signature.

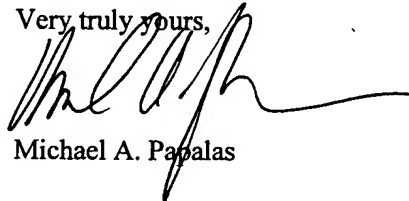
We have suggested to Phaethon that they look to you to recover the costs associated with the delay, namely, the extension of time fees, as well as the additional costs for our time in preparing the Petition.

We would like to remind you that we do not represent you in any capacity, and therefore are not your attorneys. We believe that this matter is a serious legal matter, as you have a legal obligation to Phaethon to sign such patent documents. Therefore, we would like for you to consult with counsel of your own choosing in this matter.

Mr. Gershon Perelman  
June 17, 2002  
Page 2

Thank you for your attention in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Michael A. Papalas', with a long horizontal flourish extending to the right.

Michael A. Papalas

MAP/jhp

cc: Josh Rothenberg  
Phil Cardman